

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

DONALD REYNOLDS,

Plaintiff,

v.

CIVIL ACTION NO. 5:20-cv-00753

D.L. YOUNG and
SIS OFFICER MANNING and
SIS OFFICER SWEENEY and
OFFICER WISEMAN and
OFFICER BANTON and
OFFICER ANSLEY

Defendants.

ORDER

Pending are Defendants’ Motion to Dismiss the Complaint or, in the alternative, for summary judgment, [Doc. 34], filed March 2, 2021, and Plaintiff’s Motion for Summary Judgment, [Doc. 50], filed April 5, 2021.¹

This action was previously referred to the Honorable Cheryl A. Eifert, United States Magistrate Judge, for submission of proposed findings and a recommendation (“PF&R”). Magistrate Judge Eifert filed her PF&R on September 30, 2021. [Doc. 97]. Magistrate Judge Eifert recommended that the Court **GRANT** in part and **DENY** in part Defendants’ Motion and **DENY** Plaintiff’s Motion.

The Court is required “to make a de novo determination of those portions of the report or specified findings or recommendations to which objection is made.”

¹ Also pending is Mr. Reynold’s Motion for Reconsideration, filed September 9, 2021. [Doc. 91]. Inasmuch as exhaustion is disputed and will proceed to discovery, that Motion is **DENIED** as moot.

28 U.S.C. § 636(b)(1). On October 13, 2021, Defendants filed objections to the PF&R. [Doc. 98]. The Court **OVERRULES** Defendants' objections as squarely foreclosed by binding precedent. *Earle v. Shreves*, 990 F.3d 774, 780 (4th Cir. 2021) (noting that federal inmates, even without a true *Bivens* cause of action, have "full access to remedial mechanisms established by the BOP, including suits in federal court for injunctive relief") (quoting *Corr. Servs. Corp. v. Malesko*, 534 U.S. 61, 74 (2001)); *Ross v. Meese*, 818 F.2d 1132, 1134–35 (4th Cir. 1987) (stating that, in a "*Bivens* type action," "the district court had jurisdiction to enter a declaratory judgment respecting whether constitutional rights were violated and, if so, to order appropriate injunctive relief").


On October 14, 2021, the Court received Mr. Reynolds's objections. [Doc. 100]. The adoption of the PF&R obviates the need to consider Mr. Reynolds's specific objections inasmuch as the two are aligned on the material points raised in the objections.

For the foregoing reasons, the Court **ADOPTS** the Magistrate Judge's PF&R [Doc. 97], **DENIES** in part and **GRANTS** in part Defendants' Motion to Dismiss, or in the Alternative, for Summary Judgment [Doc. 34], and **DENIES** Plaintiff's Motion for Summary Judgment [Doc. 50]. The matter is **RECOMMITTED** to the magistrate judge pursuant to the terms of the original referral order.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party herein.

ENTER: January 19, 2022




Frank W. Volk
United States District Judge